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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,092	02/11/2002	Jan Abraham Van Asselt	VANASSETT.NEW1	8120

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BLANK ROME COMISKY & MCCAULEY LLP  
THE FARRAGUT BUILDING SUITE 1000  
900 17TH STREET NW  
WASHINGTON, DC 20006

EXAMINER

HUNTER, ALVIN A

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/980,092

Applicant(s)

VAN ASSELT, JAN ABRAHAM

Examiner

Alvin A. Hunter

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☒ Claim(s) 22-26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the drawing has not been labeled as a Figure as prescribed by 37 CFR 1.74. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tension or reeling mechanism as recited in claims 26 and 27, and the backboard and target as recited in claim 28 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The abstract of the disclosure is objected to because abstract contains legal phraseology. Correction is required. See MPEP § 608.01(b).
4. The disclosure is objected to because of the following informalities:
  - a) on page 5, large arrow that is believe to be directing the reader to the next page should be deleted; and
  - b) on page 6, 2<sup>nd</sup> line of paragraph 2, "3and" should read –3 and –.Appropriate correction is required.

***Claim Objections***

5. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 25-38 have been renumbered to 15-28. Claims 22, 24, 25 and 26 are objected to because of the following informalities:

a) In claims 22, 24 and 25, "one or both guideways" should read --at least one guideway--;

b) in claim 26, "of the or each guideway" should read -- of the at least one guideway-- .

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 15-28 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. How is the launch mechanism made? What is the buffering and/or deflector means? What is the tension mechanism and how do you use

it? How is the inclination varied? Where is the reeling mechanism and how is it used? Where is the backboard or target? The above are just a few questions showing that the specification does not make to clear as how to make the invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 15, and 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon, Jr. (USPN 6042491) in view of Lingbeek (USPN 3630521).

Dixon, Jr. discloses a ball propelling and batting apparatus for practicing baseball (See Background of the Invention). The apparatus comprises two lines, or guideways made of plastic material, as shown in Figure 1 that can be inclined, and anchoring means at one end of the lines, and a ball in which the two line pass through to propelled the ball (See Summary of the Invention and Detailed Description of the Invention). The stopper (42) can be consider as a target being that it absorbs the shock of the ball when missed by the hitter during a swing (See Column 5, lines 21 through 49). Dixon, Jr. also inherently has a tensioning means being that the tension of the lines would vary based on the distance of the pitcher. Dixon, Jr. does not disclose the ball connected to a reciprocating means which is connected the lines. Lingbeek discloses a baseball batting practice device in which the ball (5) is attached to a line (4), or what the applicant calls a reciprocating means, which is attached to two low friction lines (2), or

Art Unit: 3711

what the applicant calls guideways, via rings (3) to allow the ball to move along the low friction lines (See Entire Document). A reeling means is inherent within Lingbeck being that the lines (2) are connected to a post (1). It appears that the lines may be wrapped around the post (1) for storage. One having ordinary skill in the art would have been motivated to use a reciprocating means in place of just only the ball, as taught by Lingbeck, in order to facilitate the equivalent movement of the ball along the guideways.

9. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dixon, Jr. (USPN 6042491) in view of Lingbeck (USPN 3630521) further in view of Pruss (USPN 3754761).

Dixon, Jr. in view of Lingbeck do not disclose having the guideways secured to the ground by a stake. Pruss discloses a golf practice device in which one end of a guide string (10) is anchored at ground level by a stake (9) (See Entire Document). As implied by Pruss, one would have been motivated to use a stake as an anchoring device being that it is commonly known within the art to be used to hold elements at ground level. Pruss also discloses the other end of the guide string (10) attached to a tree (8), which is a stable support (See Entire Document). Again as implied by Pruss, it would have been obvious for one having ordinary skill in the art at the time the invention was made to attach the guideways to a stable support in order to prevent unwanted movement.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-

Art Unit: 3711

5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Paul T. Sewell  
Supervisory Patent Examiner  
Group 5700